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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,701	08/11/2000	Darek R. Skalecki	1960.212	8113

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EXAMINER

NGUYEN, STEVEN H D

ART UNIT	PAPER NUMBER
2665	

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/636,701

Applicant(s)

SKALECKI ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5-6, 13-15, 17, 23, 26-27 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Saleh (US 2001/0033548).

Regarding claims 1, 13 and 23, Saleh discloses (Figs 1-21 and Pages 1-21) a method and system for receiving a request for selecting an alternate communications path wherein the request containing information regarding the network resources used by said current communications path (Fig 9, Ref 900 for receiving alarm message and generating a request for selecting an alternate path); supplementing the resources available in said network with said network resources used by said current communications path, while computing an alternate communications path (Fig 9, Ref 940 transmits a release message along the failed path for releasing the bandwidth of the failed path to the bandwidth table for using to compute the alternate path ; See Page 11, Sec 133, after releasing the resource of the VP, the node broadcasts a RPR message includes a requested bandwidth to compute the best alternated path between the source and destination, See Fig 15 for selecting a route) .

Regarding claims 2, 14 and 26, Saleh discloses the network resource includes a bandwidth, memory, CPU and links/nodes (Page 11, Sec 126).

Regarding claims 3, 15 and 27, Saleh discloses alternate communications path uses a bandwidth, CPU and memory which are not greater than the bandwidth, CPU and memory used by said current communications path (Col. 17, Sec 146).

Regarding claim 5, Saleh discloses computing said alternate communications path includes using information from a network topology database (Page 16, Sec 196).

Regarding claim 6, 17 and 29, Saleh inherently discloses a part of alternate path includes a part of the current path because the alternate path only establishes to bypass a failure link or node of the current path.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-10, 12, 18-20, 22 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saleh (US 2001/0033548) in view of Bader (USP 6112249).

Regarding claims 7-8, 18 and 24-25, Saleh discloses Figs 1-21 and Pages 1-21) receiving a request for selecting an alternate communications path, said request containing information regarding network resources reservations used by said current communications path (Fig 9, Ref 900 for receiving alarm message and generating a request for selecting an alternate path); removing said network resources reservations used by said current communications path from a network topology database; computing said alternate communications path based on information

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accessed from said network topology database (Fig 9, Ref 940 transmits a release message along the failed path for releasing the bandwidth of the failed path to the bandwidth table for using to compute the alternate path; See Page 11, Sec 133, after releasing the resource of the VP, the node broadcasts a RPR message includes a requested bandwidth to compute the best alternated path between the source and destination, See Fig 15 for selecting a route based on topology database; See Page 16, Sec 196). However, Saleh fails to disclose restoring said network topology database to reflect again said network resources reservations used by said current communications path. In the same field of endeavor, Bader discloses restoring said network topology database to reflect again said network resources reservations used by said current communications path wherein the steps are performed in atomic transaction (Fig 3, Ref 30 and Fig 2, Ref 12 disclose a method and system for rerouting the packets from the secondary path to primary path after the primary path in the topology database becomes active).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for rerouting the packets from the backup path to main path when it has been restored as disclosed by Bader into Saleh's method and system. The motivation would have been to reduce delay in the network path.

Regarding claims 9 and 19, Saleh discloses the network resource includes a bandwidth, memory, CPU and links/nodes (Page 11, Sec 126).

Regarding claims 10 and 20, Saleh discloses alternate communications path uses a bandwidth, CPU and memory which are not greater than the bandwidth, CPU and memory used by said current communications path (Col. 17, Sec 146).

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Regarding claims 12 and 22, Saleh implicitly discloses a part of alternate path includes a part of the current path because the alternate path only establishes to bypass a failure link or node of the current path.

5. Claims 4, 11, 16, 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saleh/Bader in view of Fedyk (USP 5848055).

Regarding claims 4, 11, 16, 21 and 28, Saleh fails to disclose the claimed invention. However, Fedyk discloses alternate communications path uses a bandwidth, CPU and memory which are greater than the bandwidth, CPU and memory used by said current communications path (Fig 10, Z bandwidth are greater than X bandwidth).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method for setup an alternate path having a bandwidth greater than the main bandwidth as disclosed by Fedky into the system of Saleh/Bader. The motivation would have been to reduce the delay in the network path.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hsing (USP 6167025) discloses a method and system for establishing an alternate path between the source and destination when a node detects a failure link. The node transmits a release message for releasing the network resource to the nodes that are no longer to be a part of the path between the source and destination.

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Masuo (USP 6034961) discloses a method and system for using active/standby routing table.

Stirpe (USP 5805578) discloses a system and method for automatic reconfiguration of multipoint communication channels.

Voelker (USP 5856981) discloses a method and system for reliable connection oriented networks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (703) 308-8848. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (703) 308-6602. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
12/28/03